

825.103

Subpart 825.8—Other International Agreements and Coordination

825.870 Technical assistance.

Subpart 825.9—Customs and Duties

825.902 Procedures.

825.902-70 Technical assistance.

Subpart 825.10—Additional Foreign Acquisition Regulations

825.1001 Waiver of right to examination of records.

Subpart 825.11—Solicitation Provisions and Contract Clauses

825.1102 Acquisition of construction.

AUTHORITY: 40 U.S.C. 121(c) and 48 CFR 1.301-1.304.

SOURCE: 73 FR 2717, Jan. 15, 2008, unless otherwise noted.

Subpart 825.1—Buy American Act—Supplies

825.103 Exceptions.

(a) *Public interest.* When a contracting officer believes that a determination that domestic preference would be inconsistent with the public interest is necessary under FAR 25.103(a), the contracting officer must submit the request for determination to the DSPE for submission to the SPE, who will forward the request to the Secretary for approval. The request for determination must contain all the facts and other pertinent information upon which a determination may be made.

(b) *Non-availability.* (1) For each determination of non-availability made in accordance with FAR 25.103(b)(2)(i), the HCA must do the following:

(i) Factually support the determination and include the supporting facts in the contract file.

(ii) Forward a copy of the determination, along with supporting documentation, to the DSPE.

(2) If the HCA believes that the non-availability of an article is likely to affect future acquisitions, include a recommendation that a copy of the determination and supporting documentation be forwarded to the Civilian Agency Acquisition Council (CAAC) for possible addition to the list of non-available articles in FAR 25.104. The DSPE

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will decide whether to submit the material to the CAAC.

825.104 Nonavailable articles.

The following items are added to the list of nonavailable articles contained in FAR 25.104:

Glass, lead

Insulin, human

Subpart 825.2—Buy American Act—Construction Materials

825.202 Exceptions.

(a) When a determination is required under FAR 25.202(a)(1), the contracting officer must submit the request for determination to the DSPE for submission to the SPE, who will forward the request to the Secretary. The submission must contain all the facts and other pertinent information necessary for the Secretary to make a determination.

(b) For each determination of non-availability that the HCA makes in accordance with FAR 25.202(a)(2), the HCA must do the following:

(1) Factually support the determination in writing and include the determination in the contract file.

(2) Forward a copy of the determination, along with supporting documentation, to the Director, Office of Construction and Facilities Management, through the DSPE.

(3) If the HCA believes that the non-availability of an article is likely to affect future acquisitions, include a recommendation that a copy of the determination and supporting documentation be forwarded to the Civilian Agency Acquisition Council (CAAC) for possible addition to the list of non-available articles in FAR 25.104. The DSPE will decide whether to submit the material to the CAAC.

825.205 Post-award determinations.

A post-award determination that an exception to the Buy American Act applies, as provided in FAR 25.205(c), will be made in accordance with FAR 25.202 and 825.202.